

Missouri **Human Rights Act**

*Fair Housing
Fair Employment Practices and
Public Accommodations*

Enforced By The _____



*Missouri Commission on
Human Rights*

Missouri Department of Labor and Industrial Relations

*Missouri Statutes
on Discriminatory Practices*

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THE COMMISSION ON HUMAN RIGHTS

The Missouri Commission on Human Rights is the state agency charged with encouraging fair treatment for all persons and enforcing Missouri's antidiscrimination laws. The commission is composed of eleven Commissioners, one from each Congressional District and a Chairman at large, appointed by the Governor.

THE LAW

The Fair Housing section forbids discrimination because of race, color, religion, national origin, ancestry, sex, familial status or disability, in the purchase, sale, advertising, financing and rental of any dwelling in the state.

The Fair Employment Practices section forbids discrimination in employment because of race, color, religion, sex, age, national origin, ancestry, or disability. Such discrimination is unlawful in advertising, pre-hiring inquiries, hiring, firing, promotion, conditions of employment, and admission to unions or apprenticeship training programs. The law applies to all employment agencies, unions, state and local government agencies, and private businesses employing six or more persons.

WHAT YOU CAN DO IF YOU ARE DISCRIMINATED AGAINST

If you believe you have been unlawfully discriminated against, you may file a complaint with the Missouri Commission on Human Rights. You should write to the Commission for a complaint form which should be completed, notarized and returned to the Commission. A Commission representative will contact you, and your complaint will be investigated. The business, agency or union you complain against will have a chance to tell its side of the story. If your complaint is found justified, the Commission will try to eliminate the discrimination by conciliation. If private conferences fail, the Commission may hold a public hearing and obtain a court order to protect your rights. The Commission may demand

that you be hired, promoted or reinstated in your job, with back pay if justified. Or the Commission may issue a cease and desist order to eliminate the discriminatory practice. The Commission can also order actual damages.

Chapter 213

HUMAN RIGHTS

Sec.

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- 213.131. Local commissions, certification-review-decertification.
- 213.135. Local commissions, power and authority-procedure-public attorney, duties-appeal, procedure-adoption of procedural rules.
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CROSS REFERENCES

AIDS, application of chapter 213 to persons with HIV infection, RSMo 191.665

Ethnic intimidation, criminal code, RSMo 574.085

Institutional vandalism and ethnic intimidation, civil actions for damages or injunction, attorney fees and costs, RSMo 537.523

213.010. Definitions.-

As used in this chapter, the following terms shall mean:

(1) **“Age”**, an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;

(2) **“Commission”**, the Missouri commission on human rights;

(3) **“Complainant”**, a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice;

(4) **“Disability”**, a physical or mental impairment which substantially limits one or more of a person’s major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. For purposes of this chapter, the term “disability” does not include current, illegal use of or addiction to a controlled substance as such term is defined by section 195.010, RSMo; however, a person may be considered to have a disability if that person:

(a) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;

(b) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or

(c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance;

(5) **“Discrimination”**, any unfair treatment based on race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing;

(6) **“Dwelling”**, any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

(7) **“Employer”** includes the state, or any political or civil subdivision thereof, or any person employing six or more persons within the state, and any person directly acting in the interest of an employer, but does not include corporations and associations owned and operated by religious or sectarian groups;

(8) **“Employment agency”** includes any person or agency, public or private, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any person acting in the interest of such a person;

(9) **“Executive director”**, the executive director of the Missouri commission on human rights;

(10) **“Familial status”**, one or more individuals who have not attained the age of eighteen years being domiciled with:

(a) A parent or another person having legal custody of such individual; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(11) **“Human rights fund”**, a fund established to receive civil penalties as required by federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and which will be disbursed to offset additional expenses related to compliance with the Department of Housing and Urban Development regulations;

(12) **“Labor organization”** includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment;

(13) **“Local commissions”**, any commission or agency established prior to August 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional charter city, town, village, or county;

(14) **“Person”** includes one or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized groups of persons;

(15) **“Places of public accommodation”**, all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement, including, but not limited to:

(a) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment;

(c) Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;

(d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(e) Any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds;

(f) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment;

(16) **“Rent”** includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant;

(17) **“Respondent”**, a person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the commission;

(18) **“Unlawful discriminatory practice”**, any act that is unlawful under this chapter.

(L. 1959 H.B. 266 1, A.L. 1978 H.B. 949 & 1266, A.L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

(1991) Person is not handicapped under the statute if the physical impairment interferes with performance of the job. Accommodation is not reasonable if it either imposes undue financial and administrative burdens on the employer or requires a fundamental alteration in the nature of the program. *Umphries v. Jones*, 804 S.W.2d 38 (Mo. App. 1991). (1995) Where a defendant was president, sole director and sole shareholder of corporation which was joint defendant, individual defendant was granted summary judgment in suit alleging that defendants violated the Missouri human rights act by terminating plaintiff's employment because of a disability or handicap. The definition of “employer” in this section does not subject employees, including supervisors or managers, to individual liability. *Lenhardt v. Basic Institute of Technology, Inc.* 55 F.3d 377 (8th Cir.).

213.020. Commission on human rights created-members, how appointed, terms, vacancies, how filled-functions-local commissions, power and authority.-

1. There is hereby created a “Missouri Commission on Human Rights”. It shall consist of eleven members, with no less than one from each of the congressional districts of this state, serving without compensation, to be appointed by the governor with the advice and consent of the senate. One of the members shall be appointed chairperson by the governor. Appointments to the commission shall be for a term of six years. No more than six members at any one time shall be members of the same political party. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

2. The function of the commission shall be to encourage fair treatment for and to foster mutual understanding and respect among, and to discourage discrimination against, any racial, ethnic, religious or other group protected by this

chapter, members of these groups or persons with disabilities.

3. Any local commission created and established prior to August 13, 1986, by an ordinance adopted by the governing body of any city, constitutional charter city, town, village, or county, shall have the power and authority to seek to eliminate and prevent discrimination in employment, housing, and public accommodation, and to establish related programs, which shall be certified by the commission as substantially equivalent. The power and authority of such commissions to initiate and pursue administrative proceedings and remedies shall be solely as provided in section 213.135.

(L. 1959 H.B. 266 2, 3, A.L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

(1990) Nothing in subsection 3 of this statute gives cities, towns, villages or counties the power to create a cause of action for the violation of an anti-discrimination ordinance. Failure of legislature to include an express grant of power to determine violations and make awards establishes its intent that such power is not included. *Yellow Freight Systems, Inc. v. Mayor's Commission on Human Rights of the City of Springfield*, 791 S.W.2d 382 (Mo. en banc).

213.025. Commission members to receive per diem and expenses, when.-

The provisions of section 213.020 relating to the members of the commission on human rights serving without compensation to the contrary notwithstanding, whenever any member of the commission serves as a member of a panel to hear complaints involving alleged discriminatory practices under this chapter he shall receive as compensation for such duty the sum of fifty dollars for each day he actually serves on such panel and shall be reimbursed for his reasonable and necessary expenses actually incurred in the performance of his duties on the panel.

(L. 1978 H.B. 949 & 1266, A.L. 1986 S.B. 513)

213.030. Powers and duties of commission-rulemaking, procedure.-

1. The powers and duties of the commission shall be:

(1) To seek to eliminate and prevent discrimination because of race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing and to take other actions against discrimination because of race, color, religion, national origin, ancestry, sex, age, disability, or familial status as provided by law; and the commission is hereby given general jurisdiction and power for such purposes;

(2) To implement the purposes of this chapter first by conference, conciliation and persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

(3) To formulate policies to implement the purposes of this chapter and to make recommendations to agencies and officers of the state and political subdivisions in aid of such policies and purposes;

(4) To appoint such employees as it may deem necessary, fix their compensation within the appropriations provided and in accordance with the wage

structure established for other state agencies, and prescribe their duties;

(5) To obtain upon request and utilize the services of all governmental departments and agencies to be paid from appropriations to this commission;

(6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this chapter and the policies and practices of the commission in connection therewith;

(7) To receive, investigate, initiate, and pass upon complaints alleging discrimination in employment, housing or in places of public accommodations because of race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing and to require the production for examination of any books, papers, records, or other materials relating to any matter under investigation;

(8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to take the testimony of any person under oath, and, in connection therewith, to require the production for examination of any books, papers or other materials relating to any matter under investigation or in question before the commission;

(9) To issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination in housing, employment or in places of public accommodation because of race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing;

(10) To provide each year to the governor and to the general assembly a full written report of all its activities and of its recommendations;

(11) To adopt an official seal;

(12) To cooperate, act jointly, enter into cooperative or work sharing agreements with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and other federal agencies and local commissions or agencies to achieve the purposes of this chapter;

(13) To accept grants, private gifts, bequests, and establish funds to dispose of such moneys so long as the conditions of the grant, gift, or bequest are not inconsistent with the purposes of this chapter and are used to achieve the purposes of this chapter;

(14) To establish a human rights fund as defined in section 213.010, for the purposes of administering sections 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1959 H.B. 266 4, A.L. 1978 H.B. 949 & 1266, A.L. 1986 S.B. 513, A.L. 1992 H.B. 1619, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

213.040. Unlawful housing practices-discrimination in housing-sufficient compliance with other standards-local government compliance- construction of law-housing for older persons, defined-conviction for controlled substances, effect-religious organizations, effect of.-

1. It shall be an unlawful housing practice:

(1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable, a dwelling to any person because of race, color, religion, national origin, ancestry, sex, disability, or familial status;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, disability, or familial status;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, ancestry, sex, disability, or familial status, or an intention to make any such preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, national origin, ancestry, sex, disability, or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, disability, or familial status;

(6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that buyer or renter;

(7) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

2. For purposes of sections 213.040, 213.045 and 213.050, discrimination includes:

(1) A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such

person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

3. As used in subdivision (3) of subsection 2 of this section, the term **“covered multifamily dwelling”** means:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four or more units.

4. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as “ANSI A117.1”, suffices to satisfy the requirements of paragraph (a) of subdivision (3) of subsection 2 of this section.

5. Where a unit of general local government has incorporated into its laws the requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be subject to the following provisions:

(1) A unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subdivision (3) of subsection 2 of this section are met;

(2) The commission shall encourage, but may not require, the units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with subdivision (3) of subsection 2 of this section, and shall provide technical assistance to units of local government and other persons to implement the requirements of subdivision (3) of subsection 2 of this section;

(3) Nothing in this chapter shall be construed to require the commission to review or approve the plans, designs or construction of all covered dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of subdivision (3) of subsection 2 of this section.

6. Nothing in this chapter shall be construed to invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this chapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.

7. Nothing in sections 213.040, 213.045 and 213.050 requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8. Nothing in sections 213.040, 213.045 and 213.050 limits the applicability of any reasonable local or state restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision in sections 213.040, 213.045 and 213.050 regarding familial status apply with respect to housing for older persons.

9. As used in sections 213.040, 213.045 and 213.050, **“housing for older persons”** means housing:

(1) Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(2) Intended for, and solely occupied by, persons sixty-two years of age or older; or

(3) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(a) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and

(c) The publication of, and adherence to, policies and procedures which

demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

10. Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of August 28, 1992, who do not meet the age requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9 of this section; or

(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.

11. Nothing in section 213.040, 213.045, or 213.050 shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by section 195.010, RSMo.

12. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

13. Nothing in this chapter, other than the prohibitions against discriminatory advertising in subdivision (3) of subsection 1 of this section, shall apply to:

(1) The sale or rental of any single family house by a private individual owner, provided the following conditions are met:

(a) The private individual owner does not own or have any interest in more than three single family houses at any one time; and

(b) The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any twenty-four-month period; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.045. Discrimination in commercial real estate loans prohibited.-

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against him in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, disability, or familial status of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants, of the dwellings in relation to which such loan or other financial assistance is to be made or given.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.050. Discrimination in selling or renting by real estate agencies prohibited.-

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization, or facility relating to the business of selling or renting dwellings, on account of race, color, religion, national origin, ancestry, sex, disability, or familial status.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.055. Unlawful employment practices.-

1. It shall be an unlawful employment practice:

(1) For an employer, because of the race, color, religion, national origin, sex, ancestry, age or disability of any individual:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability;

(b) To limit, segregate, or classify his employees or his employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability;

(2) For a labor organization to exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of race, color, religion, national origin, sex, ancestry, age or disability of any individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse

to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability; or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on the job training programs to discriminate against any individual because of his race, color, religion, national origin, sex, ancestry, age or disability in admission to, or employment in, any program established to provide apprenticeship or other training;

(3) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination, because of race, color, religion, national origin, sex, ancestry, age or disability unless based upon a bona fide occupational qualification or for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, national origin, sex, ancestry, age as it relates to employment, or disability, or to classify or refer for employment any individual on the basis of his race, color, religion, national origin, sex, ancestry, age or disability.

2. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences or such systems are not the result of an intention or a design to discriminate, and are not used to discriminate, because of race, color, religion, sex, national origin, ancestry, age or disability, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, ancestry, age or disability.

3. Nothing contained in this chapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, national origin, sex, ancestry, age or disability of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, ancestry, age or disability employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified

by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, ancestry, age or disability in any community, state, section, or other area, or in the available work force in any community, state, section, or other area.

4. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for the state or any political subdivision of the state to comply with the provisions of 29 U.S.C. 623 relating to employment as firefighters or law enforcement officers.

(L. 1986 S.B. 513)

CROSS REFERENCE:

Employers of minors to comply with provisions of this section, RSMo 294.065

(1994) Standards for finding punitive damages under Missouri statute are entirely different from standards for imposing liquidated damages under the federal Age Discrimination in Employment Act. Missouri law of punitive damages requires actual outrageousness. Not every willful violation of the ADEA involves outrageous conduct. *Nelson v. Boatmen's Bancshares, Inc.*, 26 F.3d 796 (8th Cir.).

213.065. Discrimination in public accommodations prohibited, exceptions.-

1. All persons within the jurisdiction of the state of Missouri are free and equal and shall be entitled to the full and equal use and enjoyment within this state of any place of public accommodation, as hereinafter defined, without discrimination or segregation on the grounds of race, color, religion, national origin, sex, ancestry, or disability.

2. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, as defined in section 213.010 and this section, or to segregate or discriminate against any such person in the use thereof on the grounds of race, color, religion, national origin, sex, ancestry, or disability.

3. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society, or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in section 213.010 and this section.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.070. Additional unlawful discriminatory practices.-

It shall be an unlawful discriminatory practice:

(1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this chapter or to attempt to do so;

(2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this chapter;

(3) For the state or any political subdivision of this state to discriminate on the basis of race, color, religion, national origin, sex, ancestry, age, as it relates to employment, disability, or familial status as it relates to housing; or

(4) To discriminate in any manner against any other person because of such person's association with any person protected by this chapter.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.075. Complaints to commission, how filed, when-filing with federal agencies, effect-duties of executive director-respondents-hearing, notice, procedure-attorney general to represent commission-appeal, discovery-effect of orders of commission.-

1. Any person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the commission a verified complaint in writing, within one hundred eighty days of the alleged act of discrimination, which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice and which shall set forth the particulars thereof and such other information as may be required by the commission. The complainant's agent, attorney or the attorney general may, in like manner, make, sign and file such complaint.

2. Any complaint which is filed with the federal Equal Employment Opportunity Commission or other federal agencies with which the commission has a work-sharing or deferral agreement, or with a local commission which has been certified as substantially equivalent by the commission, shall be deemed filed with the commission on the date that such complaint is received by such federal agency or local commission. A copy of all complaints filed with a local commission with the authority to enforce the provisions of this chapter is to be forwarded to the commission within seven days of the filing thereof with such local commission. If a local commission has jurisdiction to hear a complaint filed with the commission, such complaint shall be deemed to have been filed with the local commission on the date on which such complaint was filed with the commission. The commission shall, within seven days of the receipt of a complaint which a local commission has jurisdiction to hear, forward a copy thereof to such local commission.

3. After the filing of any complaint, the executive director shall, with the

assistance of the commission's staff, promptly investigate the complaint, and if the director determines after the investigation that probable cause exists for crediting the allegations of the complaint, the executive director shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion, and shall report the results to the commission. The investigation, determination of probable cause and conciliation shall be conducted according to such rules, regulations and guidelines as the commission shall prescribe.

4. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, pursuant to such rules, regulations, and guidelines as the commission shall prescribe. Such notice, in addition to complying with the requirements of such rules, regulations, and guidelines, shall also state the reason why the person to whom the notice is addressed has been joined as a party.

5. In case of failure to eliminate such discriminatory practice as found in the investigation, if in the judgment of the chairperson of the commission circumstances so warrant, there shall be issued and served in the name of the commission, a written notice, together with a copy of the complaint, as it may have been amended, requiring the person named in the complaint, hereinafter referred to as "respondent", to answer the charges of the complaint at a hearing, at a time and place to be specified in the notice, before a panel of at least three members of the commission sitting as the commission or before a hearing examiner licensed to practice law in this state who shall be appointed by the executive director and approved by the commission. The place of the hearing shall be in the office of the commission or such other place designated by it, except that if the respondent so requests, in writing, the hearing shall be held in the county of such person's residence or business location at the time of the alleged unlawful discriminatory practice. A copy of the notice shall also be served on the complainants.

6. In all cases where a written notice of hearing has been issued and a party has not elected the option to proceed in circuit court as set forth in section 213.076, the procedures set forth for a hearing shall apply.

7. The commission shall be a party to the action and shall be represented before the panel or the hearing examiner by the office of the attorney general or, when so delegated by the attorney general, a staff attorney of the commission. Neither the hearing examiner nor any member of the panel shall have participated in the investigation of the complaint. Evidence concerning endeavors at conciliation shall be excluded.

8. The respondent may file a written verified answer to the complaint and appear at the hearing in person or otherwise with or without counsel, and submit testimony. At the discretion of the hearing examiner or the panel, the complainant may be allowed to intervene, thereby becoming a party to the action

with the right to present testimony in person or by counsel, provided the complainant at all times shall be treated as a party for the purpose of discovery and the taking of depositions. The commission or complainant intervenor shall have the power to reasonably and fairly amend any complaint, and the respondent shall have like power to amend any answer. The testimony taken at the hearing shall be under oath and be transcribed.

9. In any contested case before the commission, any party may take and use written interrogatories, requests for production of documents and other materials, and requests for admissions, and all other forms of discovery authorized by rules of civil procedure in the same manner, upon, and under the same conditions, and upon the same notice, as is or may hereafter be provided for with respect to the taking and using of written interrogatories, requests for production of documents and other materials, and requests for admissions, and all other forms of discovery authorized by rules of civil procedure in civil actions in the circuit court. The panel or hearing examiner shall have the authority to impose sanctions in the same manner as set forth in the rules of civil procedure.

10. The hearing shall be conducted in the manner provided by chapter 536, RSMo.

11. When the case is heard by a panel of the commission, the chairperson of the commission shall select the hearing panel and the presiding officer. The presiding officer shall have full authority to call and examine witnesses, admit or exclude evidence and rule upon all motions and objections. The panel shall state its findings of fact and conclusions of law, and if, upon all the evidence at the hearing, the panel finds:

(1) That a respondent has engaged in an unlawful discriminatory practice as defined in this chapter, the commission shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice. The order shall require the respondent to take such affirmative action, as in the panel's judgment will implement the purposes of this chapter, including, but not limited to, payment of backpay; hiring; reinstatement or upgrading; restoration to membership in any respondent labor organization; the extension of full, equal and unsegregated housing; the extension of full, equal and unsegregated public accommodations; extension of a commercial real estate loan or other financial assistance; extension or restoration of membership or participation in any multiple listing service or other real estate service organization or facility; payment of actual damages; and the submission of a report of the manner of compliance;

(2) That a respondent has engaged or is about to engage in a violation of section 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of one or more of such other sections or relates to or involves the encouraging, aiding, or abetting of a violation of such other sections, the commission may, in addition to the relief provided in subdivision (1) of this subsection, assess a civil penalty against the

respondent, for purposes of vindicating the public interest:

(a) In an amount not exceeding two thousand dollars if the respondent has not been adjudged to have violated one or more of the sections enumerated in subdivision (2) of this subsection within five years of the date of the filing of the complaint;

(b) In an amount not exceeding five thousand dollars if the respondent has been adjudged to have committed one violation of the sections enumerated in subdivision (2) of this subsection within five years of the date on which the complaint is filed;

(c) In an amount not exceeding ten thousand dollars if the respondent has been adjudged to have committed two or more prior violations of the sections enumerated in subdivision (2) of this subsection within seven years of the date on which the complaint is filed.

All civil penalties set forth in this subsection shall be paid to the human rights fund.

12. If, upon all the evidence, the panel finds that a respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant and respondent an order dismissing the complaint.

13. When the case is heard by a hearing examiner, the examiner shall have all powers described in subdivision (8) of section 213.030 and subsection 11 of this section, for the purpose of the hearing. The hearing examiner shall make findings of fact and conclusions of law and shall recommend to the commission an order granting such relief as provided in subsection 11 of this section or dismissing the complaint as to the respondent as provided in subsection 12 of this section, in accordance with such findings.

14. A panel of at least three members of the commission, sitting as the commission, shall review the record, findings and recommended order of the hearing examiner. The panel shall thereafter accept or amend the recommended order which shall become the order of the commission. All orders shall be served on the complainant and respondent, and copies shall be delivered to the attorney general and such other public officers as the commission deems proper.

15. No order of the commission issued pursuant to this section shall affect any contract, sale, encumbrance or lease consummated before the issuance of such order and involving a bona fide purchaser without actual notice of the charge filed pursuant to this section.

16. Any person aggrieved by an order of the commission may appeal as provided in chapter 536, RSMo.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

* Word "section" appears in original rolls.

(1993) Where plaintiff filed complaint with federal Equal Employment Opportunity Commission within required time of alleged act of discrimination, complaint is deemed

to meet statutory time limit for filing complaint under Missouri's human rights act. Claim for emotional distress damages under Missouri human rights act is not preempted by workers' compensation act. *Gruben v. Famous-Barr Co.*, 823 F. Supp. 664 (E.D. Mo.). (1994) Where plaintiff alleged racially discriminatory discharge in administrative claim, claim of racial harassment in the workplace is not sufficiently like or reasonably related to discriminatory discharge claim to be deemed within the scope of the lawsuit and claimant could not bring Missouri human rights act action based on unexhausted racial harassment claim. *Tart v. Hill Behan Lumber Co.*, 31 F.3d 668 (8th Cir.).

213.076. Notice relating to aiding and abetting, civil action-commencement of action-intervention-relief-authority of commission.-

1. When a written notice of hearing is issued alleging violation of section 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section 213.070 relates to or involves violation of one or more of such other sections or relates to or involves the encouraging, aiding or abetting of violation of such sections, a complainant or respondent may elect to have the claims asserted in that complaint decided in a civil action under the provisions of this section in lieu of a hearing pursuant to the provisions of section 213.075. Written notice of an election made pursuant to this subsection shall be filed with the commission and all parties within twenty days of the date on which the written notice of hearing is placed in the mail by the commission staff.

2. Where a party has made an election pursuant to the provisions of this section, to have the claims asserted in a written notice issued by the chairperson, decided in a civil action, the chairperson shall immediately direct staff attorneys employed by the commission to commence and maintain a civil action on behalf of the complainant. Such action shall be commenced within thirty days of the election. All expenses of the claimant related to a civil action brought under this section shall be paid by the commission.

3. Any person aggrieved with respect to the issues to be determined in a civil action instituted pursuant to this section may intervene as of right in a civil action.

4. In a civil action instituted pursuant to this section, if the court finds that an unlawful discriminatory practice has occurred or is about to occur, the court may grant all relief as set forth in section 213.111. If monetary relief is sought for benefit of an aggrieved person who is not a party to the civil action, the court shall not award such relief if such person has not complied with discovery orders issued by the court.

5. The commission shall have authority to hire such attorneys as may be necessary to perform duties assigned to it pursuant to this section.

(L. 1992 H.B. 1619)

213.077. Settlement and conciliation agreement-restrictions, procedure.-

1. During the period beginning with the filing of a complaint under section 213.075, and ending with the filing of a charge, setting of a complaint for hear-

ing or dismissal of a complaint pursuant to the provisions of that section, the executive director and the commission staff shall, to the extent feasible, engage in settlement and/or conciliation with respect to the complaint. Any settlement and conciliation agreement negotiated during such period shall be an agreement between the complainant and respondent and shall be subject to approval by the executive director. Nothing said or done in the course of settlement or conciliation under this section shall be made public or used as evidence in any subsequent proceeding under this chapter, without the written consent of the complainant and respondent.

2. If a complaint has been filed pursuant to section 213.055, 213.065 or 213.070, alleging commission of an unlawful employment practice or discrimination in public accommodations:

(1) During investigation, the public shall not have access to records relating to the complaint, nor shall any information relating thereto be released to the public;

(2) During investigation, the complainant and respondent shall only have access to records they provided until the point at which disclosure is allowed at hearing, or if a request for civil action is made under section 213.111 for a right to or other legal proceedings pursuant to federal, state or local discrimination laws that require disclosure;

(3) Settlement agreements, executed during investigation shall be disclosed to the public only by agreement of the complainant and respondent;

(4) After closure of a complaint, the public may only have access to the complaint and closure documents by agreement of the complainant and respondent;

(5) Excluding a finding of probable cause, after an investigation closure, the complainant and respondent may have access to the investigative file except for sensitive or confidential records and records relating to witnesses who have requested anonymity. With respect to records that the commission has obtained from other government agencies, the commission will observe any statutory confidentiality provisions imposed on the originating agencies;

(6) A conciliation agreement shall be disclosed to the public only by agreement of the complainant and respondent;

(7) After failure of conciliation attempts, the complainant and respondent may have access to copies of the investigative file, except for sensitive or confidential records and records relating to witnesses who have requested anonymity;

(8) To achieve the purposes of this chapter, this subsection shall not apply to disclosure of information to representatives of interested federal, state or local civil or human rights agencies.

3. If a complaint is filed alleging violation of section 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section 213.070 relates to or involves violations of one or more of the other above enumerated

sections or relates to or involves the encouraging, aiding or abetting of violation of such sections:

(1) The public, complainant and respondent shall have access to records relating to the complaint in the same manner as set forth in subdivisions (1), (2), (4), (5), (7), and (8) of subsection 2 of this section;

(2) Any settlement or conciliation agreement entered into by the complainant and respondent shall be made public unless the parties thereto otherwise agree and the executive director determines that disclosure is not required to further the purpose of this chapter..

(L. 1992 H.B. 1619)

213.085. Decisions of commission-judicial review, when, procedure, venue- enforcement of order-breach of settlement agreement, remedy.-

1. All final decisions, settlement agreements, conciliation agreements, findings, rules and orders of the commission under any provision of this chapter shall be in writing. Parties to proceedings shall each be sent a copy of the commission's decision and order in the proceedings.

2. Any person who is aggrieved by a final decision, finding, rule or order of the commission may obtain judicial review by filing a petition in the circuit court of the county of proper venue within thirty days after the mailing or delivery of the notice of the commission's final decision.

3. Judicial review shall be in the manner provided by chapter 536, RSMo, as it may be amended or superseded from time to time. The venue of such cases shall, at the option of the appealing party, be in the circuit court of Cole County or in the county of the appealing party's residence, or if the appealing party is a corporation, domestic or foreign, having a registered office or business office in this state, in the county of its registered office or business office.

4. If no proceeding for review is instituted in the circuit court within the time herein prescribed, the commission may obtain an order in a proceeding brought in the circuit court of the county wherein the unlawful discriminatory practice which is the subject of the commission's order occurred, or the county wherein any person required in the order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or conducts business. The record on the commission's petition for enforcement shall consist solely of duly certified records of the commission showing that it has jurisdiction over the respondent, that the procedure prescribed by this action has been complied with, and a certified copy of the commission's order with proof of service. On such a petition, the inquiry of the court shall be limited to a determination of whether the action of the commission is in excess of its statutory authority or jurisdiction and whether the respondent has substantially complied with the order of the commission.

5. Where no proceeding for judicial review is filed within the time estab-

lished under subsection 3 of this section, and the commission has not filed a petition for enforcement of its order in the circuit court, any person entitled to relief may, after the expiration of sixty days from the date of the commission's order, file a petition for enforcement of the commission's decision in a circuit court having proper venue thereof. The contents of the petition and the jurisdiction of the court shall be as set forth in subsection 4 of this section.

6. Where a suit for enforcement of a commission order has been filed pursuant to either subsection 4 or 5 of this section, the circuit court shall issue its order enforcing the commission decision, unless the party against whom enforcement is sought affirmatively shows that:

(1) The court is without jurisdiction or venue;

(2) Such commission order violates the provisions of the constitution of this state or of the United States;

(3) The commission order is beyond its statutory authority or jurisdiction; or

(4) The party has substantially complied with the order of the commission.

7. Where the commission deems there has been a breach of the terms or conditions of a settlement agreement or conciliation agreement, the commission shall institute an action in circuit court to enforce the terms of the agreement or to obtain the appropriate remedy for such breach. Nothing in this subsection shall prohibit the parties to such agreement from personally filing suit to enforce this subsection.

(L. 1986 S.B. 513, A.L. 1992 H.B. 1619)

213.095. Violation of a commission order, misdemeanor.-

Any person who shall willfully violate an order of the commission shall be guilty of a class C misdemeanor.

(L. 1986 S.B. 513)

213.101. Construction of statutes.-

The provisions of this chapter shall be construed to accomplish the purposes thereof and any law inconsistent with any provision of this chapter shall not apply. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any law of this state relating to the discrimination because of race, color, religion, national origin, sex, ancestry, age, disability, or familial status.

(L. 1986 S.B. 513 213.100, A.L. 1992 H.B. 1619)

213.111. Right to civil action, when-relief available-costs and attorney's fees, awarded when.-

1. If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of section 213.070 as it relates to employment and public accommodations, the commis-

sion has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. If, after the filing of a complaint pursuant to section 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, or subdivision (3) of section 213.070 as it relates to housing, and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission's notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party.

2. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual and punitive damages, and may award court costs and reasonable attorney fees to the prevailing party, other than a state agency or commission or a local commission; except that, a prevailing respondent may be awarded court costs and reasonable attorney fees only upon a showing that the case is without foundation.

(L. 1986 S.B. 513 213.110, A.L. 1992 H.B. 1619)

*Word "their" appears in original rolls.

213.112. Applicability.-

Legally permissible actions pursuant to section 441.020, RSMo, are subject to the provisions of this chapter only if a primary motive for the section 441.020, RSMo, action is not any of the factors listed in 441.020, RSMo.

213.126. Attorney general to act, when-authorization of civil action- settlement agreement.-

1. Whenever the attorney general has a reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter or that any group of persons has been denied any of the rights granted by this chapter, and such denial raises an issue of general public importance, he may bring a civil action to any appropriate state court by filing with it a complaint setting forth the facts

and requesting such preventive relief, including, but not limited to, an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to ensure the full enjoyment of the rights granted by this chapter.

2. If, at any time following the filing of a complaint alleging violation of one or more of the provisions of sections 213.040 to 213.070, the chairperson determines that prompt judicial action is necessary to carry out the purposes of this chapter, the chairperson may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under the provisions of this chapter. Upon receipt of such authorization, the attorney general may commence and maintain an action seeking temporary or preliminary relief of an equitable nature in the circuit court of the county in which the respondent resides or in any county in which respondent conducts business.

3. Upon request by the commission, the attorney general shall take appropriate action in circuit court to enforce a subpoena issued by the commission.

4. The attorney general may file suit to enforce a settlement or conciliation agreement or any order of the commission referred by the commission or executive director.

(L. 1986 S.B. 513 213.125, A.L. 1992 H.B. 1619)

213.131. Local commissions, certification-review-decertification.-

1. No local commission shall have authority to hear complaints of violations of this chapter unless such municipal or county commission has first been certified to be substantially equivalent by the commission. The commission shall certify a local commission as substantially equivalent if the ordinance establishing the local commission provides substantially similar protection of the procedural rights of parties appearing before the local commission as are provided for by the provisions of this chapter.

2. The commission shall review the certification of each local commission at least once every five years to determine whether it is appropriately safeguarding the procedural and substantive rights of parties appearing before it. Should the commission determine that a local commission is not adequately protecting the rights of parties appearing before it, it shall direct the commission staff to enter into negotiations with the local commission for the purpose of attempting to correct any deficiencies. Any decision to decertify a local commission shall be appealable to circuit court pursuant to the provisions of chapter 536, RSMo. (L. 1992 H.B. 1619)

213.135. Local commissions, power and authority-procedure-public attorney, duties-appeal, procedure-adoption of procedural rules.-

1. Any local commission authorized under subsection 3 of section 213.020 and certified by the commission as substantially equivalent shall, pursuant to

the provisions of this section, have power and authority to hear complaints of violations of this chapter that are alleged to have been committed within the city, town, village or county which created the commission, provided that no complaint against the state of Missouri, including the University of Missouri system, or any official, officer, employee, department, agency, or other agent or servant thereof shall be entertained by a municipal or county commission as authorized in subsection 3 of section 213.020. Such authority may only be exercised in a manner consistent with the provisions of this chapter. In furtherance of the authority granted in this section, local commissions shall be empowered to hold hearings, subpoena witnesses, compel their attendance, administer oaths, to take the testimony of any person under oath, and to require the production for examination of any books, papers or other materials relating to any matter under investigation or in question before the commission.

2. Any local commission authorized under subsection 3 of section 213.020 may be empowered by the legislative body of the city, town, village or county it serves to exercise the powers granted in this section, any provision of law, charter or ordinance to the contrary notwithstanding.

3. Proceedings before the local commission shall be consistent with the requirements of section 213.075, with the exceptions that in the context of these proceedings, the references to the attorney general therein shall apply to an attorney or counselor for the city, town, village or county, and that contested cases before the local commission shall be heard by a hearing examiner who shall present to the local commission, or to a panel of members thereof, proposed findings of fact, proposed conclusions of law, and a proposed order, or who shall, if the municipal ordinance so provides, render findings of fact, conclusions of law, and an order. Hearings before local commissions shall either be tape recorded or held before a certified court reporter.

4. The order of a local commission shall not be final for appeal purposes until filed with and reviewed by a hearing examiner of the commission. The order shall be filed with the commission within thirty days of the date the local commission entered its order. Within fifteen days of the filing of the order the local commission shall transmit the transcript of the hearing previously reduced to writing to the commission. The local commission shall prepare the transcript of the hearing and file with it all exhibits, whether received or rejected, with the commission. The commission hearing examiner shall issue an opinion within ninety days of receipt of the local commission's complete hearing record. Thirty days from the date of issuance of the opinion, the order of the local commission shall become final for purposes of appeal and may be appealed in the same manner as any other decision of the commission as set out in section 213.085. If no opinion is issued by the hearing examiner within ninety days, the local commission's decision shall be considered final for purposes of appeal and may be appealed in the same manner as any other decision of the commission as set out in section 213.085.

5. If no appeal from a final order of a local commission has been filed within thirty days, a petition for enforcement of the order may be filed in the circuit court as provided in section 213.085.

6. Local commissions may adopt procedural rules relating to the investigation, settlement and conciliation of complaints and conduct of hearings, provided that such rules and regulations are consistent with the provisions and spirit of this chapter. Such rules and regulations shall be subject to review by the Missouri commission on human rights, and shall not become effective until approved thereby. The commission shall have authority to approve, disapprove, or approve with amendments any local commission rules submitted to it. In the event that the commission approves local commission rules and regulations with amendments, such rules shall become effective when the amendments are adopted by the local commission.

(L. 1992 H.B. 1619)

213.137. Severability.-

If any section, subsection, subdivision, paragraph, sentence, or clause of sections 213.010 to 213.135 is held to be invalid or unconstitutional, such decision shall not affect any remaining portion, section, or part thereof which can be given effect without the invalid provision.

(L. 1992 H.B. 1619 1)

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